

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Gerald Doyen,

Court File No. \_\_\_\_\_

Plaintiff,

vs.

**NOTICE OF REMOVAL**

D’Amico & Sons, LLC d/b/a  
D’Amico & Sons and Gateway  
Washington, Inc.

Defendants.

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Pursuant to 28 U.S.C. § 1331, 1441 and 1446, Defendant D’Amico & Sons, LLC d/b/a D’Amico & Sons (“D’Amico”) hereby removes the above-captioned litigation to the United States District Court for the District of Minnesota to which Defendant Gateway Washington (“Gateway”) has consented and joined. As grounds for removal, D’Amico states as follows:

**I. THIS COURT HAS REMOVAL JURISDICTION.**

1. This litigation involves a Complaint by Plaintiff Gerald Doyen against Defendants. Exhibit A.

2. The Complaint is captioned in the State of Minnesota District Court for the Second Judicial District (County of Ramsey). *Id.*

3. Federal law permits defendants sued in state court to remove a “civil action ... of which the district courts of the United States have original jurisdiction ... to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

4. Federal law defines this Court’s “original jurisdiction” to include “civil actions arising under the Constitution, laws, or treaties of the United States.” *See* 28 U.S.C. § 1331.

5. Plaintiff’s Complaint pleads two counts, each of which arises under the Americans with Disabilities Act (“ADA”), a “law[] ... of the United States” that is codified at 42 U.S.C. § 12181 *et seq.* *See* Exhibit A at ¶¶ 38-55 (purporting to state violations of the ADA).

6. Because Plaintiff’s Complaint arises under federal law, the Complaint presents a federal question under 28 U.S.C. § 1331 and falls within this Court’s original jurisdiction under 28 U.S.C. § 1441(a).

7. Because Ramsey County, Minnesota is within this Court’s judicial district, this Court “embrac[es] the place where [this] action is pending” and has removal jurisdiction under 28 U.S.C. § 1441(a).

## **II. THIS NOTICE OF REMOVAL IS TIMELY.**

8. Defendants must remove litigation to federal court within 30 days from the date of service. *See* 28 U.S.C. § 1446(b); *Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-48(1999).

9. Plaintiff served a copy of the Complaint on D’Amico on November 28, 2018.

10. Because this Notice of Removal is being filed within 30 days from the date of service on D’Amico – i.e., on or before December 28, 2018 – the Notice of Removal is timely.

**III. THIS NOTICE OF REMOVAL IS PROPER.**

12. In accordance with 28 U.S.C. § 1446(b), attached hereto as Exhibit A are copies of “all process, pleadings, and orders served upon” the Defendants in this litigation.

13. Also in accordance with 28 U.S.C. § 1446(b), Gateway Washington’s Consent to Removal is being filed along with this Notice of Removal.

14. Pursuant to 28 U.S.C. § 1446(d), the undersigned certify that immediately after the filing of this Notice of Removal in this Court, a Notification of Filing of Notice of Removal (attached hereto as Exhibit B) will be filed in the Minnesota District Court for the Second Judicial District (County of Ramsey) and will be served on all parties.

WHEREFORE, D’Amico gives notice that the above-captioned litigation has been removed from the Minnesota District Court for the Second Judicial District (County of Ramsey) to the United States District Court for the District of Minnesota.

NILAN JOHNSON LEWIS PA

Dated: December 28, 2018

By: /s/Veena A. Iyer  
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